



## **Ad-Hoc Query on the costs of the issue and the execution of the decision on return**

**Requested by PL EMN NCP on 23th March 2015**

**Summary prepared by NO EMN NCP from the responses from Austria, Czech Republic, Estonia, Finland, France, Germany, , Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovak Republic, United Kingdom plus Croatia (17 in Total)**

*Disclaimer: The responses were provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs provided, to the best of their knowledge, information that was up-to-date, objective and reliable. Note, however, that the information provided did not necessarily represent the official policy of an EMN NCPs' Member State.*

### **Background Information**

According to the Polish legislation – art. 336 par. 1 of the act of 12 December 2013 on foreigners (J. of L. of 2013, item 1650 with amendments) the costs associated with the issue and execution of a decision on imposing the return obligation on a foreigner shall be determined in case when a decision on return does not specify a deadline for voluntary return or in case when the decision on return has been executed by force.

According to art. 338 this costs shall include in particular the costs of:

- 1) the procedure to issue a decision on imposing the return obligation on a foreigner;
- 2) taking the foreigner's fingerprints and photographs;

- 3) the foreigner's stay at a guarded centre or at a detention centre for foreigners;
- 4) foreigner's medical examination;
- 5) assistance granted to a foreigner by the other Member States of the European Union in connection with a transit by air through its territory;
- 6) transfer of a foreigner to the border or to an airport or sea port of the state to which he/she is to be brought;

According to art. 337 par. 1 This costs shall be borne by a foreigner.

#### **Answers to the following questions were requested:**

1. Do other Member States issue to the foreigner the decision determining the costs of return?
2. What kind of costs are included in the decision determining the costs of return?
3. Do the costs determined in the decision cover also the costs of the salaries of the officers executing the decision or the salaries of the officers supervising the stay of the foreigner in a detention centre?

#### **Summary of responses**

- The responses for 9 (Member) indicated that the foreigner is **not** required to cover the costs of forced return, and in another two responses these costs may have to be covered by other parties, e.g. the carrier bringing the foreigner to the country, rather than by the foreigner him-/herself.
- Among the costs elements explicitly said to be included when determining the costs of return to be covered by the forcibly returned foreigner were: interpretation (2 responses), transport (8), escorts (4), food (3), accommodation/detention (8), medical care (6) and various administrative costs (8). No specification of cost elements were provided in 3 responses.
- Only one response (for DE) stated that also the costs of the salaries of the officers executing the decision or the salaries of the officers supervising the stay of the foreigner in a detention centre are included when calculating the cost to be recovered, and in two responses only some salary costs are included.

#### **Comment**

Several responses signal that although the relevant regulations specify that the foreigner or other parties, e.g. the carrier, should have to cover the costs incurred in connection with a forced return, there are no or only a few cases when this has actually happened. The reasons for this are not given, but one may speculate that the perceived costs of the cost recovery process, and/or the perceived probability that any cost may actually be recovered, are important determinants for this.

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